

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7156

Amended Petition of UPC Vermont Wind, LLC, for a )  
Certificate of Public Good, pursuant to )  
30 V.S.A. § 248, authorizing the construction and )  
operation of a 40 MW wind electric generation facility, )  
consisting of 16 wind turbines, and associated )  
transmission and interconnection facilities, in Sheffield )  
and Sutton, Vermont, to be known as the "Sheffield )  
Wind Project" )

Order entered: 9/20/2010

**ORDER RE COMPLIANCE FILINGS**

On August 8, 2007, the Public Service Board ("Board") issued a Certificate of Public Good ("CPG") conditionally approving construction of a wind generation facility by Vermont Wind, LLC ("Vermont Wind"). On March 31, 2010, Vermont Wind filed post-CPG compliance documents. These documents include the following filings that require Board review and approval: (1) the Sound Monitoring Plan; (2) the Bear Habitat Management Plan; and (3) the Bird and Bat Fatality and Curtailment Study Plan. In addition, on April 12, 2010, Vermont Wind filed a request that the Board reduce the threshold that determines whether a decommissioning review must be initiated, from 65% of projected power production during any consecutive two-year period to 50%.

In this Order we approve the plans and grant in part Vermont Wind's request to reduce the threshold for decommissioning review.

**Sound Monitoring Plan**

Condition 10 of the CPG states:

UPC shall submit to the Board for review and approval a noise monitoring plan to be implemented during the first full year of operation. The Plan shall establish a monitoring program to confirm under a variety of seasonal and climactic

conditions compliance with the maximum allowable sound levels described above.

On May 11, 2010, the Department of Public Service ("Department") filed comments and recommendations on the Sound Monitoring Plan ("Plan"). The Department states that the Plan is "generally consistent with other environmental noise/sound monitoring plans." However, the Department provides recommendations and comments on certain aspects of the Plan, including: operation of turbines during the first year of field sampling, the location of the monitors, the assumptions regarding sound attenuation, and the complaint procedure.

On May 12, 2010, Ridge Protectors, Inc. ("RPI") filed a letter regarding the Plan. RPI provides specific recommendations regarding the collection of data from inside residences, rather than estimating inside noise levels based on monitoring outside the residence and estimating attenuation of the building, the location of the monitors, reporting requirements, and the procedure for addressing complaints.

On May 25, 2010, RPI filed a letter responding to the Department's May 11 comments.

On May 26, 2010, Vermont Wind filed a revised sound monitoring plan to address comments of the Department and, in part, RPI. The May 26 letter also responds to RPI's May 12 comments, including the use of exterior noise monitoring (compared to interior noise monitoring) and RPI's proposed complaint monitoring procedure.

We conclude that the May 26 revised Plan submitted by Vermont Wind satisfies Condition 10 of the CPG, with one minor clarification, as described below. With respect to measuring noise levels outside, rather than inside, a structure, we conclude that the May 26 Plan provides a sufficient protocol for accounting for the sound attenuation of buildings. In addition, the complaint monitoring procedure generally outlines a sufficient protocol for responding to any complaints received regarding noise levels. However, the complaint monitoring procedure provides that monitoring will be conducted once per residence, for a duration of two weeks. While this is likely to be sufficient, there may be instances where the turbines closest to the residence may not be operational during the monitoring period, or unusual climatic conditions occur and produce atypical results. In the event that a resident demonstrates such an occurrence, that resident may request that the Board require an additional round of monitoring.

The Plan does not specify the method by which it will contact a resident who files a complaint. We require Vermont Wind to develop a protocol for informing a resident when it intends to conduct any exterior monitoring and work with the resident to determine an appropriate location for the monitoring equipment. Additionally, Vermont Wind must provide information on turbine functionality during the monitoring period when it provides the results of the monitoring to the resident.

### **Bear Habitat Management Plan**

Pursuant to the stipulation entered into between Vermont Wind and the Agency of Natural Resources ("ANR"), Vermont Wind is required to file, for Board approval, a habitat management plan that is consistent with Meadowsend Timberlands' forest management objectives for the parcel, and that will ensure the proper stewardship and enhancement of the critical bear habitat features.<sup>1</sup>

On June 7, 2010, ANR filed a letter supporting the Bear Habitat Management Plan. No other party filed comments on the plan.

We conclude that the Bear Habitat Management Plan meets the requirements of the August 8 Order, and we approve the plan.

### **Bird and Bat Fatality and Curtailment Study Plan**

Pursuant to the stipulation entered into between Vermont Wind and ANR, Vermont Wind is required to develop a protocol for studying bird and bat mortality<sup>2</sup> and operational curtailment criteria for minimizing bat mortality from the Project.<sup>3</sup>

On June 7, 2010, ANR filed a letter supporting the Bird and Bat Fatality and Curtailment Study Plan. No other party filed comments on the plan.

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1. Docket 7156, Order of 8/8/07 at 86.

2. Docket 7156, Order of 8/8/07 at 94.

3. Docket 7156, Order of 8/8/07 at 109-110.

We conclude that the Bird and Bat Fatality and Curtailment Study Plan meets the requirements of the August 8 Order, and we approve the Plan.

### **Decommissioning Threshold**

Condition 32 of the CPG states, in part:

If actual production falls below 65% of projected production during any consecutive two-year period, a decommissioning review is initiated; however, if UPC can demonstrate that it has entered into stably priced power contracts with Vermont utilities through which a substantial amount of power is to be sold at stable prices, the Board may reduce the decommissioning trigger to as low as 50%.

On April 12, 2010, Vermont Wind filed a letter requesting that the decommissioning trigger be reduced to 50%. In support of its request, Vermont Wind states that it "has entered into four fixed-price power purchase agreements with three Vermont utilities, representing 75 percent of the output in the first ten years of operation, and 10 percent in the next ten years."

On April 20, 2010, the Department filed a letter supporting Vermont Wind's request.

On May 12, 2010, RPI filed a letter objecting to the proposed reduction in the decommissioning trigger. RPI argues that "the request means Vermont Wind is not likely to be able to produce nearly as much power as they predicted . . . ." RPI also states that only ten percent of the Project's output is under contract to Vermont utilities for the second ten years of operations. Finally, RPI recommends that Vermont Wind be "required to produce for public inspection all the documents in their possession which form the basis for their belief that a 65% trigger will cause them any problem."

On May 26, 2010, Vermont Wind filed a letter responding to RPI's comments. Vermont Wind asserts that RPI has not put forth any evidence that Vermont Wind's request to lower the decommissioning trigger indicates that the Project will produce less power than predicted. Vermont Wind further contends that the Board's August 3, 2009, Order approving the power purchase agreements "was a dispositive ruling that Vermont Wind has sold a substantial amount of the Project's output through long-term, stably priced contracts."

We conclude that Vermont Wind has submitted sufficient information to demonstrate that a substantial amount of the project's output will be sold to Vermont utilities at stable prices, for

the first ten years of the Project's life. However, only a small portion of the Project's output has been committed for the following ten years. Accordingly, we reduce the decommissioning trigger to 50% of the project output for the first ten years of the Project life. The decommissioning trigger shall return to 65% thereafter, absent further order by the Board.

**SO ORDERED.**

Dated at Montpelier, Vermont, this 20<sup>th</sup> day of September, 2010.

<u>s/ James Volz</u>	)	
	)	PUBLIC SERVICE
	)	
<u>s/ David C. Coen</u>	)	BOARD
	)	
	)	OF VERMONT
<u>s/ John D. Burke</u>	)	

OFFICE OF THE CLERK

FILED: September 20, 2010

ATTEST: s/ Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.*